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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,128	09/13/2000	Gerard Lang	05725.0632	7777

7590

05/22/2002

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EXAMINER

ELHILO, EISA B

ART UNIT

PAPER NUMBER

1751

18

DATE MAILED: 05/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

MF=13

Advisory Action

Application No.

09/600,128

Applicant(s)

LANG ET AL.

Examiner

Eisa B Elhilo

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1751

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 May 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): under 35 U.S.C. 112, 2nd paragraph.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.Claim(s) objected to: None.Claim(s) rejected: 32-69.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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Continuation of 5. does NOT place the application in condition for allowance because:

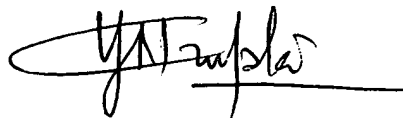
Applicants have not presented any additional data or showing to overcome the rejection of art.

Further, With respect to the rejection based upon Aaslyng in view of Audousset, Applicant argues that there is no clear and particular motivation to combine the teaching of Aaslyng and Audousset, nor is there any reasonable expectation of success in doing so. Applicant also argues that the combination still would not result in Applicants claimed invention.

The examiner respectfully disagrees with the above arguments because Audousset teaches hair dyeing composition comprising heterocyclic oxidation bases such as pyrimidine derivatives other than 4,5-diamino-6-hydroxy-pyrimidine, pyrazole derivatives other than 3,4-diaminohydroxypyrazole (see col. 6, lines 40-64) and heterocyclic couplers such as benzimidazole derivatives (see col. 2, lines 66-67). Aaslyng teaches in analogous art a hair dyeing composition comprising laccase enzymes (see page 3, line 29-31) aromatic dye precursor as oxidation bases (see page 6, line 19 and page 7, line 27) and couplers (see page 8, lines 5-20). Therefore, it is prima facie obvious to combine two compositions each of which is taught by prior art to be useful for same purpose in order to form third composition that is to be used for very same purpose, idea of combining them flows logically from their having individually taught in prior art. (In re Kerkhoven 205 USPQ 1069). Further, combination for same purpose, of one additive explicitly disclosed in prior art and another suggested by prior art is at least prima facie obvious. (In re Susi 169 USPQ 423). Further, the claims having the term "comprising", which is not excludes other components. MPEP 2111.03. Furthermore, the applicants do not provided any data to show that dyeing composition free of heterocyclic coupler chosen from indole, indoline, monocyclic pyridine and phenazine compounds and free of heterocyclic oxidation base chosen from 4,5-

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diamino-6-hydroxypyrimidine and 3,4-diaminohydroxypyrazole would obtained unexpected results.



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